

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.22840 of 2014
and
MP.Nos. 1 & 2 of 2014

1.C.Amaithi
2.N.Ponnusamy
3.N.Chellaiyan
4.G.Vadivelu
5.M.Murugan
6.C.Arunagiri
7.A.Suvitha
8.C.Mottaiyammal
9.K.Chinnapaiyan ... Petitioners/respondents

Vs.

1. D.Santhi ... Respondent/ Defacto Complainant
2.The Protection Officer
District Social Welfare Office,
Villupuram District. ... Respondent/ Complainant

Prayer: Petition filed under Section 482 of Cr.P.C., seeking to call for the records pertaining to M.C.NO.02/2014 pending trial on the file of the Learned Judicial Magistrate No.1 at Villupuram under Sections. 18, 19, 20, 22, 25(3) of " The Protection of Women against Domestic Violence Act, 2005" against the petitioners and quash the same.

For Petitioners : M/s.M.Ezhilarasi

For Respondents :.Mr.C.Iyyapparaj, APP for R2

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ORDER

The petitioners are accused in M.C.NO.02/2014 pending trial on the file of the Learned Judicial Magistrate No.1 at Villupuram under Sections 18, 19, 20, 22, 25(3) of " The Protection of Women from Domestic Violence Act, 2005" and challenging the same, the present criminal original petition has been filed by the petitioners.

2.The case of the petitioners is that the defacto complainant had lodged a complaint against the petitioners before the respondent / complainant / the Protection Officer, Villupuram under the Protection of Women from Domestic Violence Act, 2005, for the offences under Sections 18,19, 20,22, 25(3) of the Act. It is alleged that the defacto complainant had a live in relationship with the first petitioner and after getting divorce from one Ramoorthy. The first petitioner came to the defacto complainant's house and he expressed his willingness to marry the defacto complainant. Thereafter, they had started live in relationship. when the defacto complainant requested the petitioner to marry her, the first petitioner and other family members and demanded dowry and committed cruelty and tortured her and therefore, the defacto complainant filed the impugned complaint before the second respondent. Challenging the said impugned complaint, this present petition has been filed by the petitioners.

3. The learned counsel appearing for the petitioners submitted that though there are some allegations against the first petitioner, however, no serious allegations are made against the 2nd to 9th petitioners and hence, without any allegations forcing petitioners 2 to 9, to face trial is unsustainable and hence, the complaint as against them may be quashed. In the alternative, he submits that without going into the merits of the case, it would suffice, if this Court issues direction to the Trial Court to expedite the trial and complete the same as early as possible. He would further submit that the appearance of the petitioners before the Trial Court may be dispensed with and would further submit that the petitioners are ready to appear as and when necessary.

4.Learned Additional Public Prosecutor appearing for respondent concede the request made by the learned counsel appearing for the petitioners and he submitted that all the issues are triable one and it can be only investigate before the trial Court.

5. Heard the learned counsel appearing for the petitioners and the learned Addl. Public Prosecutor appearing for the respondent and perused the materials available on record.

6. A careful perusal of the complaint reveals that though there are allegations against the 1st petitioner, the husband of the defacto complainant, however, no allegations have been made against the petitoioners 2 to 9. In a nutshell, it is to be stated that there being no allegation made against the petitioners 2 to 9 in the complaint, roping in the petitioners 2 to 9, as accused in the FIR is per se unsustainable.

7.In such view of the matter, the proceedings in M.C. No.02/2014 , on the file of the learned Judicial Magistrate No.1 at Villupuram insofar as petitioners 2 to 9 herein are concerned, are hereby quashed. The learned Judicial Magistrate, Villupuram, is directed to expedite the trial in M.C. No.02/2014 against the first petitioner and complete the same as early as possible.

8.Taking into the consideration, the request made by the learned counsel appearing for the petitioners, the appearance of the first petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the petitioner for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary.

9.With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Judicial Magistrate No.I,
Villupuram.

2.The The Protection Officer
District Social Welfare Office,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Ezhilarasi, Advocate, S.R.No. 18369

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and
MP.Nos. 1 & 2 of 2014

MP (CO)
GN (24/09/2020)